

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
JACQUELINE CARUSO and RONALD CARUSO,

Plaintiffs,

-against-

ROBERT BERMAN and SUSAN BERMAN,

04 CV 9639 (GAY)

Defendants.

-----X  
**MEMORANDUM DECISION  
AND ORDER**

Plaintiff Jacqueline Caruso alleges that she tripped and fell on wooden decking surrounding a pool on property owned by the defendants. The plaintiff alleges that the injuries she sustained were caused by the defendants' negligence. Presently before this Court is defendants' motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure.<sup>1</sup> A review of the entire record indicates numerous triable factual issues including, but not limited to, whether the defendants created any defective condition or had actual or constructive notice of any defective condition. Accordingly, defendants' motion for summary judgment is **DENIED**.

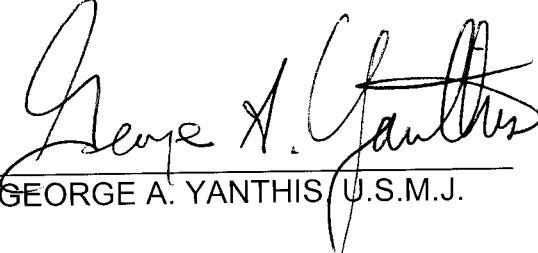
A telephone conference will be held on March 23, 2006 at 9:15 a.m. Plaintiff shall initiate the call.

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<sup>1</sup> This action is before me for all purposes on the consent of the parties, pursuant to 28 U.S.C. §636(c).

Dated: February 27, 2006  
White ~~R~~ains, New York

SO ORDERED:

  
GEORGE A. YANTHIS U.S.M.J.